



**INSTITUTE FOR THE
AMERICAN WORKER**

THE PRO ACT AND UNION FINANCES:

LIKELY EFFECTS ON UNION INCOME
AND SPENDING FROM ENACTMENT
OF THE "PROTECTING THE RIGHT TO
ORGANIZE ACT OF 2021"

NATHAN PAUL MEHRENS

THE PRO ACT AND UNION FINANCES:

LIKELY EFFECTS ON UNION INCOME AND SPENDING FROM ENACTMENT OF
THE “PROTECTING THE RIGHT TO ORGANIZE ACT OF 2021”

“Nearly 60 million Americans
would join a union if they get
a chance...”

-President Biden, March 9, 2021

EXECUTIVE SUMMARY

The PRO Act will increase the membership of labor organizations (unions) in the private sector and increase the number of individuals who must financially support them. Unions that are under the jurisdiction of the U.S. Department of Labor already receive over \$11 billion per year in dues and fees.¹ They spend these billions on a wide range of activities. If labor organizations can increase their membership to the level that existed in 1983, the dues they receive could, under a conservative estimate, exceed \$20 billion. This would give unions additional resources to use on things like political activities and lobbying, potentially allowing them to put \$3 billion per election cycle into use.

INTRODUCTION

To try and boost union membership in the private sector, the U.S. Congress is considering legislation that would make sweeping changes in the areas of federal law governing collective bargaining. The process of electing a union would be overhauled to prioritize unions and take away the ability of workers to choose to pay union fees or not. This anti-worker freedom legislation is the Protecting the Right to Organize Act of 2021, H.R. 842 (PRO Act).

According to the Bureau of Labor Statistics (BLS), 6.3 percent of private-sector employees were members of unions in 2020.² In 1983, it was 16.8 percent.³ The PRO Act is designed to reverse that decreasing trend in union membership, force workers to pay union fees, and thereby increase the bargaining power of labor organizations.⁴ This bargaining power comes not just through unions' ability to negotiate with individual employers, but also through the power of their purses. Labor organizations spend billions of dollars each year. If the Democrats succeed in turning their labor wish list into federal law, the PRO Act could result in significant increases in union revenue earmarked for political activity and lobbying—spending in these areas alone could increase to nearly \$3 billion per two-year election cycle if the membership rate returned to 1983 levels.

One thing we know for sure: if the PRO Act is enacted, union membership will likely increase regardless of the wishes of individual workers and even independent workers who work for themselves. Additionally, because the PRO Act preempts state right-to-work laws, employees who are currently non-members but who are employed in workplaces covered by collective bargaining agreements will be required to financially support the union. Preempting right-to-work would take away the choice of 2.8 million private-sector workers in 27 right-to-work states who are currently represented by unions, just as a start.⁵ These changes will lead to labor organizations gaining increased receipts from member dues, and fees from non-members.

Put plainly, more members and union fee payers equal more money, which results in larger union coffers.

To that end, the PRO Act's goals are to speed elections and make them easier for unions to win—without regard to giving workers proper information—then forcing workers to pay fees if the union does win. Proponents are likely correct that the PRO Act could result in large-scale increases in union membership and finances. For example, On March 9, President Joe Biden in a statement regarding the PRO Act said, “[n]early 60 million Americans would join a union if they get a chance...” (Emphasis added.)⁶

Sixty million is more than quadruple the current number of union members in the United States. As of 2020, BLS estimates that 14.3 million employees are members of unions in the United States.⁷ This includes both the public and private sectors. If the PRO Act results in union membership increasing to 60 million employees, as the president suggests, the scenarios discussed below would be greatly understated. But the PRO Act's proponents clearly hope that these rates will go much higher.

In 2020, labor organizations reported \$11.1 billion in receipts from dues and fees.⁸ Receipts from these generally increase most years, but 2000 was an exception. Some categories of expenses, such as those for representational activities, remain relatively constant from year to year. In other categories, such as those for political activities and lobbying, the amounts fluctuate depending on election cycles. The latest data available, for 2020, show that labor organizations disbursed \$4.5 billion for representational activities and \$790 million for political activities and lobbying.⁹

This report further examines how labor unions have historically spent member dues and fees over the past several decades, how they are spending that money now, and predicts how union spending will be impacted in the future if the PRO Act becomes law.

PRIVATE SECTOR UNION FINANCIAL REPORTING

The finances of private sector labor organizations are governed by the Landrum-Griffin Act, the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA).¹⁰ Unlike most labor-related legislation today that is largely divided along partisan lines, such as the PRO Act, the LMRDA focused on transparency and had strong bipartisan support. It was passed overwhelmingly with 95 votes in the U.S. Senate and 352 votes in the U.S. House of Representatives.¹¹

The LMRDA, among other things, requires covered labor organizations to file annual financial disclosure reports with the U.S. Department of Labor.¹² The Department's Office of Labor-Management Standards (OLMS) has promulgated several forms that are used by labor organizations to file their annual reports. The form that is used depends on the amount of the labor organization's receipts during the applicable fiscal year. Labor organizations with receipts of \$250,000 or more must use Form LM-2, the most comprehensive of the annual financial reports.¹³ Smaller labor organizations file a simplified report using either Form LM-3 or Form LM-4.^{14 15}

RESEARCH METHOD: FORM LM-2

The Form LM-2 reports detailed financial information in several categories. The Form LM-2 also asks several questions such as whether the labor organization had an audit conducted, whether the labor organization discovered any loss or shortage of funds, and how many members the labor organization had at the end of the reporting year. The Form LM-2 also contains statements where the reporting labor organization lists its assets, liabilities, receipts, and disbursements. Several of these categories have corresponding schedules that list the underlying information in more detail.

For disbursements, the Form LM-2 requires detailed disclosure in several functional expense categories including the following:

- "Representational Activities" (Schedule 15),
- "Political Activities and Lobbying" (Schedule 16),
- "Contributions, Gifts, and Grants" (Schedule 17),
- "General Overhead" (Schedule 18), and
- "Union Administration" (Schedule 19).

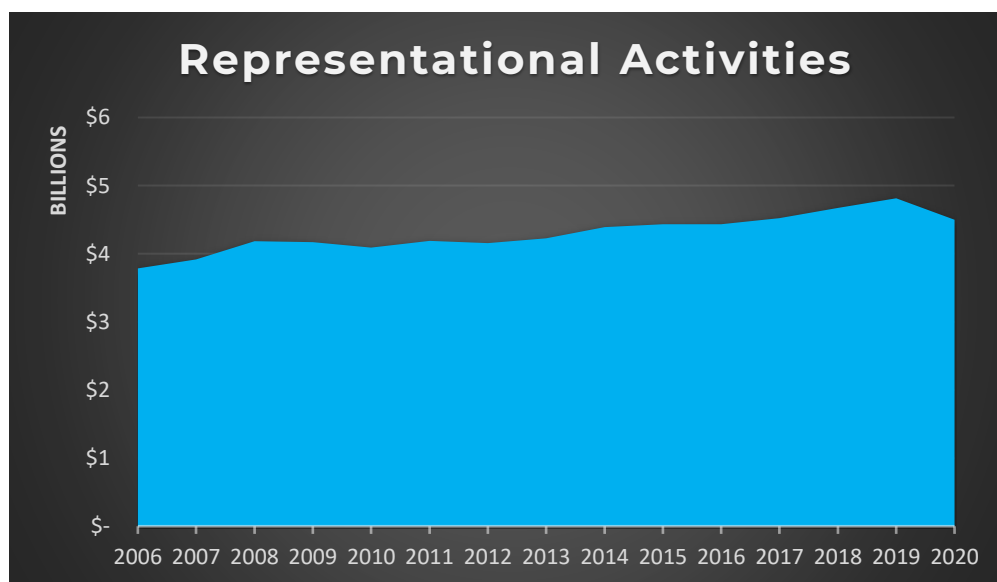
Additionally, the labor organization discloses disbursements to all officers (Schedule 11), and to every employee who received more than \$10,000 during the fiscal year (Schedule 12). Part of the disclosure here is an estimate of the

amount of time that the officer or employee spent in the functional expense categories (Schedules 15-19), rounded to the nearest 10 percent. Data from these functional expense categories form the basis of the analysis used in this report. A description of the information reported on Schedules 15-19 from the years 2006 to 2020 follows below.

While prior data are available, these data are not as comprehensive. The functional expense reporting discussed in this report was not part of the Form LM-2 until 2004 when the current reporting requirements came into effect.

REPRESENTATIONAL ACTIVITIES (SCHEDULE 15)

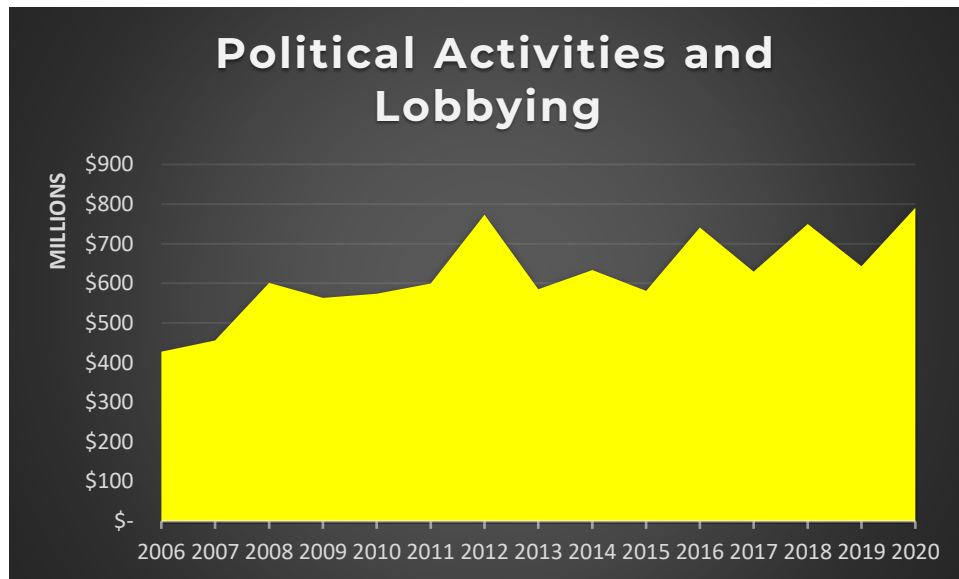
On this schedule the labor organization reports disbursements for efforts to unionize employees, to represent them after unionization occurs, and to prevent employees from decertifying the labor organization.¹⁶ From 2006 through 2020, the amount disbursed by labor organizations as reported on this schedule has increased from \$3.8 billion to \$4.5 billion per year.¹⁷



POLITICAL ACTIVITIES AND LOBBYING (SCHEDULE 16)

On this schedule the labor organization reports disbursements for activities designed to influence state, local, and federal elections. Also reported are disbursements to advance the passage or defeat of legislation or the promulgation of regulations.¹⁸

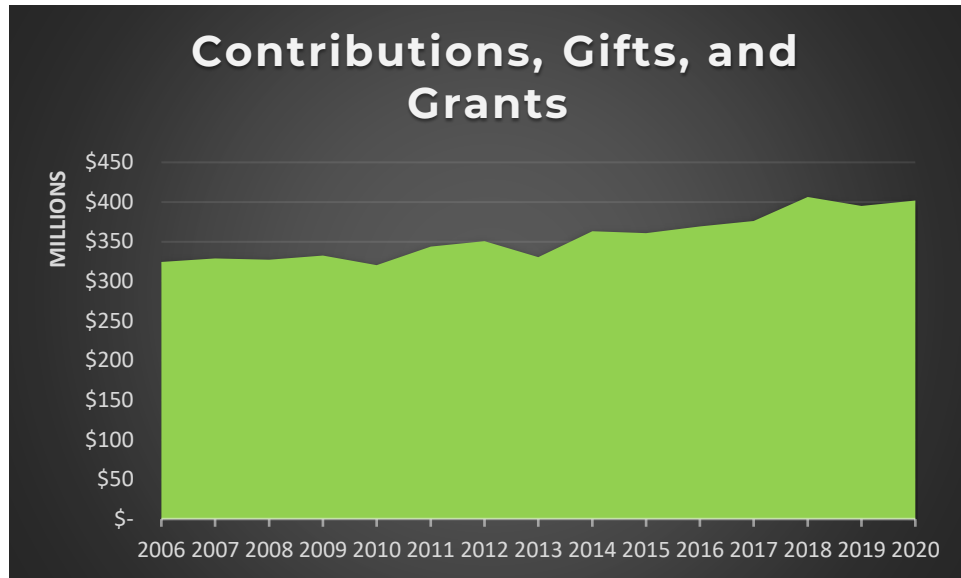
As noted above, disbursements as reported on this schedule tend to vary depending on whether the country is in an election year. In election years, the amounts disbursed are generally higher than non-election years. From 2006 to 2020, the amount reported on this schedule increased from \$427 million to \$791 million per year.¹⁹ Other reports filed with the Federal Election Commission show that union political action committee spending during the 2020 election cycle was split roughly 87 percent to support Democrats, and 13 percent to support Republicans.²⁰



CONTRIBUTIONS, GIFTS, AND GRANTS (SCHEDULE 17)

On this schedule the labor organization reports, “direct and indirect disbursements to all entities and individuals during the reporting period associated with contributions, gifts, and grants, other than those listed on Schedules 15, 16, and 20. Include, for example, charitable contributions, contributions to scholarship funds, etc.”²¹ Some of the disbursements reported on this schedule are for politics-adjacent purposes. Examples include two \$1 million contributions from the Electrical Workers national headquarters (IBEW) to the group “Milwaukee 2020” and IBEW’s \$1.1 million in contributions to “Rebuild USA, Inc.”²²

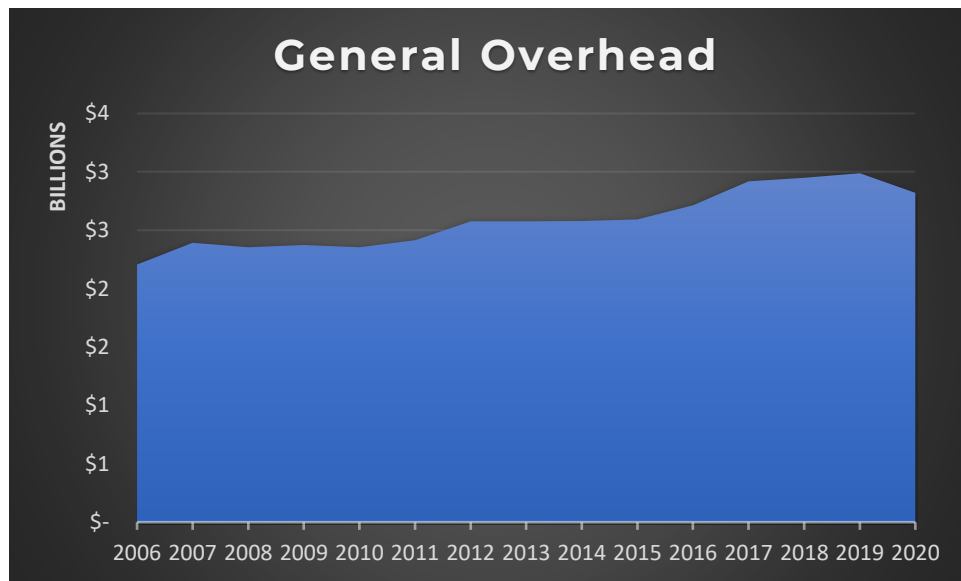
The amount reported on this schedule is generally constant with expected increases over time. From 2006 to 2020, the amount reported here increased from \$324 million to \$402 million per year.²³



GENERAL OVERHEAD (SCHEDULE 18)

On this schedule the labor organization reports disbursements for general overhead that do not fit on the other disbursement categories.²⁴

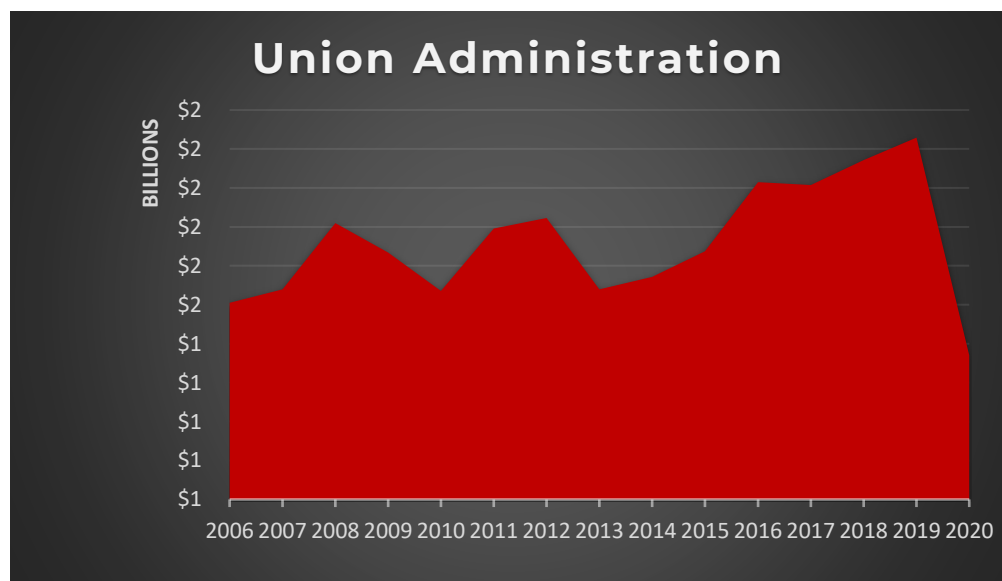
The amount reported on this schedule is generally constant with expected increases over time, although there was a decline from 2019 to 2020. From 2006 to 2020, the amount reported here increased from \$2.2 billion to \$2.8 billion per year.²⁵



UNION ADMINISTRATION (SCHEDULE 19)

Here the labor organization is to report disbursements for activities such as those “relating to the nomination and election of union officers, the union’s regular membership meetings, intermediate, national and international meetings, union disciplinary proceedings, the administration of trusteeships, and the administration of apprenticeship and member education programs...”²⁶

From 2006 to 2019, the amount reported here increased from \$1.5 billion to \$1.7 billion per year.²⁷ The amount was lower in 2020 at \$1.4 billion.²⁸ A decrease in activity due to the COVID-19 pandemic likely explains why this amount was lower in 2020.

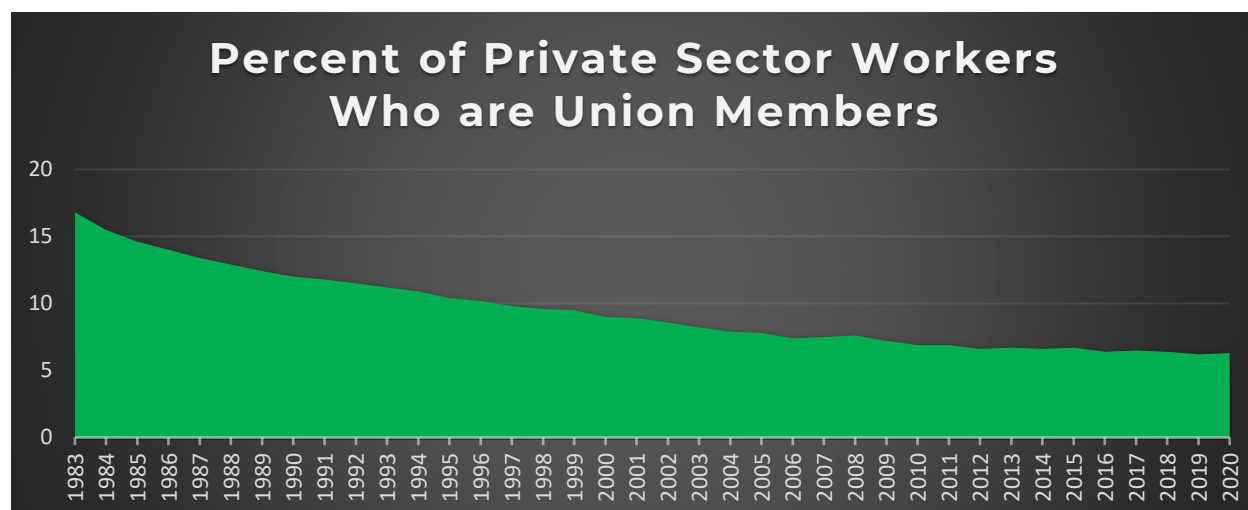


UNION MEMBERSHIP RATES IN THE UNITED STATES

As noted above, the U.S. Department of Labor’s Bureau of Labor Statistics (BLS) publishes an annual summary of union member rates in the United States. Data from that summary are available back to 1983. In the most recent summary for 2020, BLS reports that the union membership rate in the private sector was 6.3 percent and that 7.1 million workers in the private sector belong to unions.²⁹ In the public sector, the numbers are 34.8 percent and 7.2 million workers.³⁰ Thus, roughly half of union members in the United States are employed in the private sector and half are employed in the public sector.

In 1983, the private sector union membership rate was 16.8 percent.³¹ This is approximately 2.66 times the current rate of 6.3 percent.

In 2000, the private sector union membership rate was 9.0 percent.³² This is approximately 1.43 times the current rate of 6.3 percent. The chart below shows the decline in union membership from 1983 to 2020.³³



EFFECTS ON LABOR ORGANIZATION RECEIPTS AND DISBURSEMENTS IF THE UNION MEMBERSHIP RATE INCREASES

Most, if not all, labor observers believe that enacting the PRO Act will lead to an increase in the private sector union membership rate and those required to pay fees. This has been widely accepted in public comments on the pending legislation. How much the union membership rate will increase, however, is subject to debate.

For discussion purposes, two scenarios are presented below and use the private sector union membership rates as they existed in 2000 (9.0 percent), and 1983 (16.8 percent).

For these scenarios, an assumption is made that disbursements in the functional expense categories discussed above will increase at the same rate as receipts. Some functional expense categories, such as those for union overhead and union administration may not increase at the same rate as receipts because they are more likely to be fixed costs such as those related to building maintenance.

Additionally, an assumption is made that a 100 percent increase in the private sector union membership rate would lead to a 50 percent increase in the value of the receipts and disbursements reported in the OLMS data– this is a conservative estimate.

The OLMS data do not distinguish whether the members of covered labor organizations are from the public or private sector.

Unions at the state and local level that are wholly public sector, *i.e.*, that have no private sector members, are not currently covered by the reporting regulations that implement the LMRDA. Thus, while the OLMS data do include information on federal sector unions and some mixed state and local public sector unions, *i.e.*, those with at least one private sector member, the bulk of the universe of labor organizations reporting to OLMS are private sector, LMRDA-covered labor organizations. While it is likely that the OLMS data correspond to mostly private sector employees and their labor organizations, for discussion purposes the assumption is made that 50 percent of the dues reported by labor organizations in these data are received from private sector employees and 50 percent are received from public sector employees.

SCENARIO 1 – UNION MEMBERSHIP RATE INCREASES TO 9.0 PERCENT

As noted above, a union membership rate of 9.0 percent is approximately 1.43 times the current rate of 6.3 percent, or a 43 percent increase. Using the assumptions from above, a 43 percent increase in the private sector union membership rate could lead to an approximately 21.5 percent increase in covered labor organizations’ receipts and disbursements.

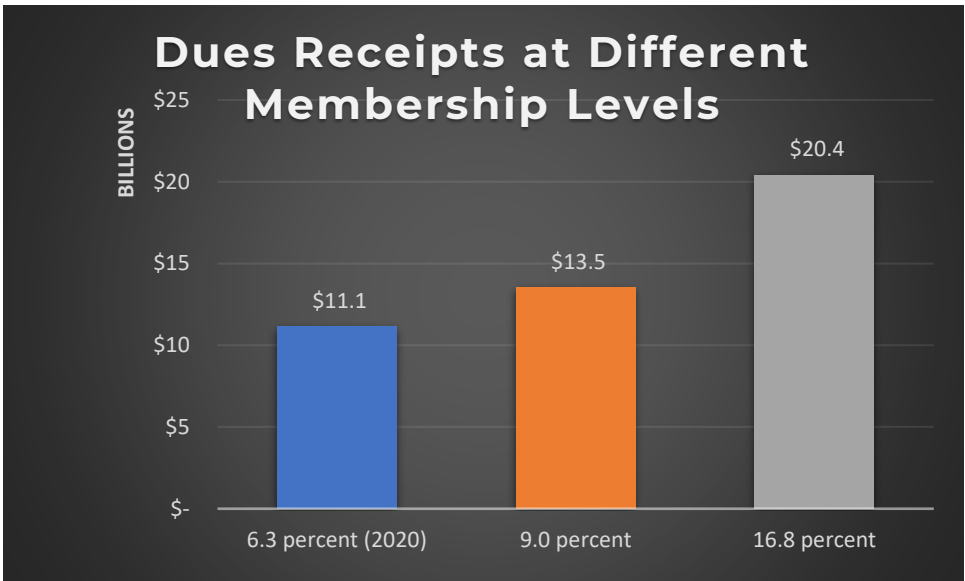
Membership Rate	Percent Increase
9.0 percent	43 percent
16.8 percent	167 percent

SCENARIO 2 – UNION MEMBERSHIP RATE INCREASES TO 16.8 PERCENT

As noted above, a union membership rate of 16.8 percent is approximately 2.66 times the current rate of 6.3 percent, or 167 percent higher. Using the assumptions from above, a 167 percent increase in the private sector union membership rate could lead to an approximately 83.5 percent increase in covered labor organizations’ receipts and disbursements.

POTENTIAL INCREASE IN RECEIPTS FROM DUES

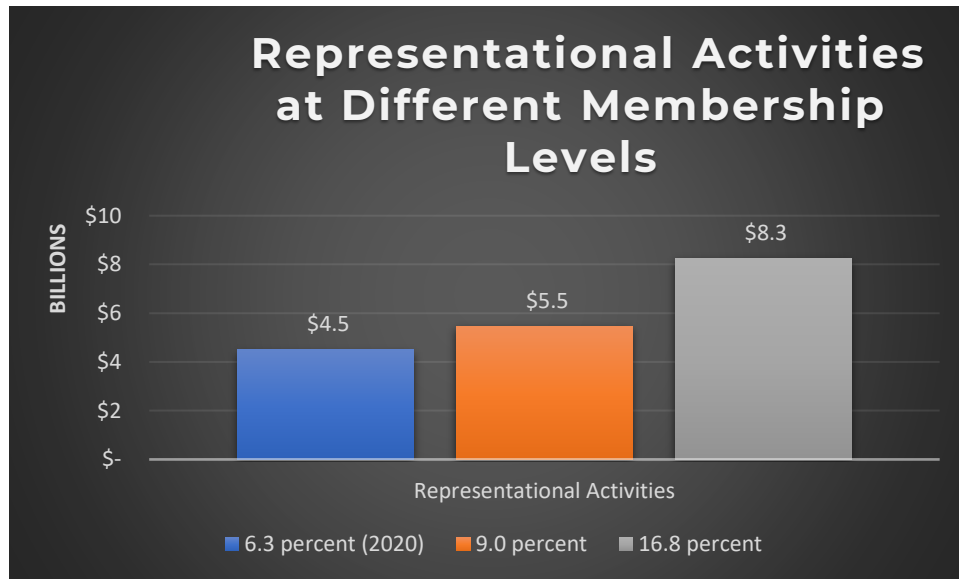
Using the assumptions above, dues received by labor organizations could conservatively increase from \$11.1 billion to \$20.4 billion if the union membership rate returns to 1983 levels.



Membership Rate	Increased Dues and Fees
9.0 percent	\$2.4 billion
16.8 percent	\$9.3 billion

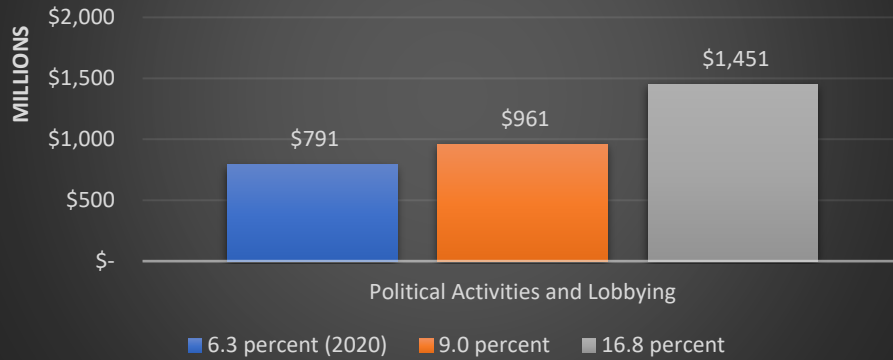
POTENTIAL INCREASE IN DISBURSEMENTS

Using the assumptions above, labor organization disbursements in the functional expense categories described above could increase as indicated below.



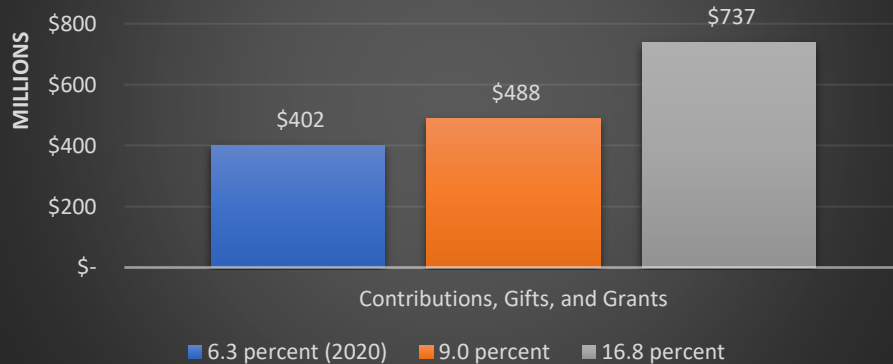
Membership Rate	Increased Representational Activities
9.0 percent	\$1.0 billion
16.8 percent	\$3.8 billion

Political Activities and Lobbying at Different Membership Levels



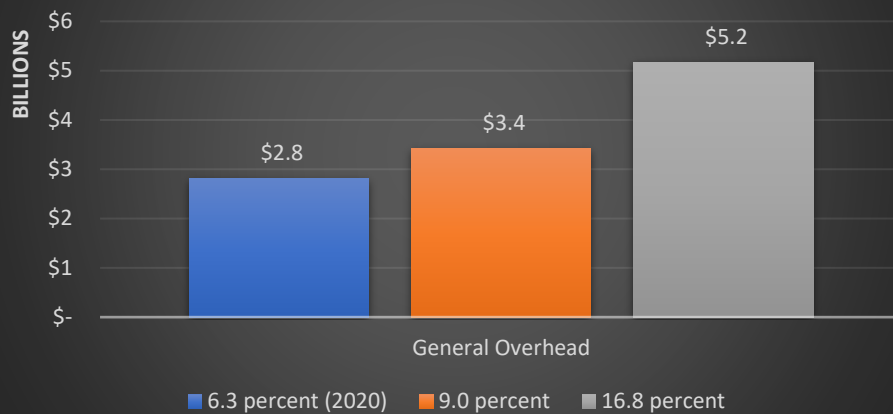
Membership Rate	Increased Political Activities and Lobbying
9.0 percent	\$170 million
16.8 percent	\$660 million

Contributions, Gifts, and Grants at Different Membership Levels



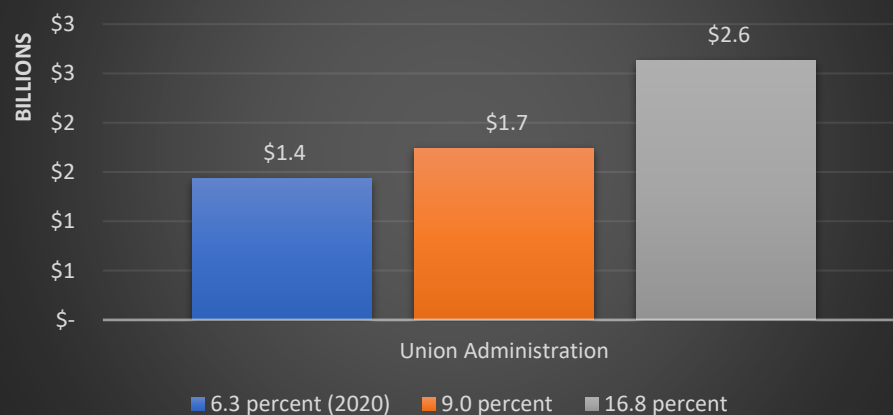
Membership Rate	Increased Contributions, Gifts, and Grants
9.0 percent	\$86 million
16.8 percent	\$335 million

General Overhead at Different Membership Levels



Membership Rate	Increased General Overhead
9.0 percent	\$600 million
16.8 percent	\$2.4 billion

Union Administration at Different Membership Levels



Membership Rate	Increased Union Administration
9.0 percent	\$300 million
16.8 percent	\$1.2 billion

CONCLUSION

If enacted into law, the PRO Act will likely result in increases to the private union member rate. This will increase the number of dues-paying members who fund labor organizations, increasing labor organization receipts and enabling unions to increase their disbursements. If the private sector union membership rate returns to where it was within the last several decades, this could conservatively mean an increase of over \$9 billion in dues receipts within the universe of labor organizations that file LM reports with OLMS. This would allow unions to increase their disbursements for everything from politics to landscaping, expanding their power and influence greatly.

ENDNOTES

¹ These are labor organization in the private sector, federal sector, and some mixed public and private sector organizations at the state and local level. See note 15, *infra*.

² Union affiliation data from the Current Population Survey, Bureau of Labor Statistics, U.S. Department of Labor. Data extracted April 1, 2021.

³ *Id.*

⁴ *Chairman Scott Statement on House Passage of the Protecting the Right to Organize Act*, Education and Labor Committee, U.S. House of Representatives, March 9, 2021. Available online at: <https://edlabor.house.gov/media/press-releases/chairman-scott-statement-on-house-passage-of-the-protecting-the-right-to-organize-act> (accessed April 21, 2021).

⁵ F. Vincent Vernuccio, *What is the Protecting the Right to Organize Act?*, State Policy Network and the Institute for the American Worker, 2021. Available online at: http://i4aw.org/wp-content/uploads/2021/03/What-is-PRO-Act_I4AW_SPN.pdf (accessed April 23, 2021).

⁶ *Statement by President Joe Biden on the House Taking Up the PRO Act*, The White House, March 9, 2021. Available online at: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/09/statement-by-president-joe-biden-on-the-house-taking-up-the-pro-act/> (accessed April 21, 2021).

⁷ *Union Members Summary*, Bureau of Labor Statistics, U.S. Department of Labor, January 22, 2021. Available online at: <https://www.bls.gov/news.release/union2.nr0.htm> (accessed April 21, 2021).

⁸ Yearly LM filing data for 2000 from the U.S. Department of Labor's Office of Labor-Management Standards, extracted April 4, 2021. Available online at: www.unionreports.gov (accessed April 21, 2021).

⁹ *Id.* Additional funds are spent by union political action committees and in some cases these expenditures are not fully captured in the OLMS data.

¹⁰ 29 U.S.C. 401 *et seq.*

¹¹ National Labor Rel. Bd., *Legislative History of the Labor-Management Reporting and Disclosure Act of 1959*, 1738,9 (1985).

¹² 29 U.S.C. 431(b).

¹³ 29 C.F.R. 403.3.

¹⁴ 29 C.F.R. 403.4.

¹⁵ Also note that the Form LM-2, LM-3, and LM-4 are also filed by labor organizations subject to the Civil Service Reform Act and the Foreign Service Act. "These laws cover labor organizations

that represent employees who work in private industry, employees of the U.S. Postal Service, and most Federal government employees. Labor organizations that include or represent only state, county, or municipal government employees are not covered by these laws and, therefore, are not required to file." *Instructions for Form LM-2 Labor Organization Annual Report*, Office of Labor-Management Standards, U.S. Department of Labor, p. 1. Available online at: https://www.dol.gov/sites/dolgov/files/olms/regs/compliance/GPEA_Forms/2020/efile/LM-2_instructionsRevised2020.pdf (accessed April 21, 2021).

¹⁶ On this schedule the labor organization reports, "direct and indirect disbursements to all entities and individuals during the reporting period associated with preparation for, and participation in, the negotiation of collective bargaining agreements and the administration and enforcement of the agreements made by the labor organization. *** The union must also report disbursements associated with efforts to become the exclusive bargaining representative for any unit of employees, or to keep from losing a unit in a decertification election or to another labor organization, or to recruit new members." *Instructions for Form LM-2, supra*, p. 25.

¹⁷ Yearly LM filing data for 2006-2000 from the U.S. Department of Labor's Office of Labor-Management Standards, extracted April 4, 2021. Available online at: www.unionreports.gov (accessed April 21, 2021).

¹⁸ On this schedule the labor organization reports, "direct and indirect disbursements to all entities and individuals during the reporting period associated with political disbursements or contributions in money. Also report the labor organization's direct and indirect disbursements to all entities and individuals during the reporting period associated with dealing with the executive and legislative branches of the Federal, state, and local governments and within dependent agencies and staffs to advance the passage or defeat of existing or potential laws or the promulgation or any other action with respect to rules or regulations (including litigation expenses). It does not matter whether the lobbying attempt succeeds. A political disbursement or contribution is one that is intended to influence the selection, nomination, election, or appointment of anyone to a Federal, state, or local executive, legislative or judicial public office, or office in a political organization, or the election of Presidential or Vice Presidential electors, and support for or opposition to ballot referenda. It does not matter whether the attempt succeeds. Include disbursements for communications with members (or agency fee paying nonmembers) and their families for registration, get-out-the vote and voter education campaigns, the expenses of establishing, administering and soliciting contributions to union segregated political funds (or PACs), disbursements to political organizations as defined by the IRS in 26 U.S.C. 527, and other political disbursements." *Instructions for Form LM-2, supra*, p. 26.

¹⁹ Yearly LM filing data for 2006-2000, *supra*. Also note that the data reported here do not include all spending for political activities as unions may, but are not required to, include expenditures from entities such as their separate political action committees on the Form LM-2.

²⁰ Federal Election Commission data released March 22, 2021. Available online from the Center for Responsive Politics at: <https://www.opensecrets.org/political-action-committees-pacs/industry-detail/P/2020> (accessed April 29, 2021).

²¹ *Instructions for Form LM-2, supra*, p. 27.

²² Form LM-2 filed by Electrical Workers IBEW AFL-CIO for the fiscal year ending June 30, 2020. Office of Labor-Management Standards File No. 000-116. Available online at: <https://olmsapps.dol.gov/query/orgReport.do?rptId=735728&rptForm=LM2Form> (accessed April 26, 2021).

²³ Yearly LM filing data for 2006-2000, *supra*.

²⁴ On this schedule the labor organization reports, “direct and indirect disbursements to all entities and individuals during the reporting period associated with general overhead that cannot be allocated to any of the other disbursement categories in Statement B. Some disbursements for overhead do not support a specific function, so these disbursements should be reported in this schedule. Include support personnel at the labor organization's headquarters, such as building maintenance personnel and security guards, and other overhead costs. Not all support staff should be included in General Overhead. For instance, the salary of an assistant, whenever possible, should be allocated at the same ratio as the person or persons to whom they provide support.” *Instructions for Form LM-2, supra*, p. 28.

²⁵ Yearly LM filing data for 2006-2000, *supra*.

²⁶ *Instructions for Form LM-2, supra*, p. 29.

²⁷ Yearly LM filing data for 2006-2000, *supra*.

²⁸ *Id.*

²⁹ *Union Members Summary, supra*.

³⁰ *Id.*

³¹ Union affiliation data from the Current Population Survey, *supra*.

³² *Id.*

³³ *Id.*

Cover photo © Nathan Paul Mehrens, December 4, 2007. Used with permission.